HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-19-1985.MD
TEXAS MEDICAL LICENSE NO. D7711

IN THE MATTER OF THE	BEFORE THE
COMPLAINT AGAINST	
STEPHEN VINCENT WHITE, M.D.	TEXAS MEDICAL BOARD

COMPLAINT

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

The Staff of the Texas Medical Board (the Board) files this Complaint against Stephen Vincent White, M.D. (Respondent), for alleged violations of the Medical Practice Act (the Act), Title 3, Subtitle B, Texas Occupations Code, and would show the following:

I. SUMMARY OF FACTUAL ALLEGATIONS

Respondent aided and abetted the unlicensed practice of medicine. Specifically, Respondent helped non-medical professionals get non-Food and Drug Administration (FDA) approved Botox and Juvederm from Canada, as well as providing his medical license for use at a spa.

II. LEGAL AUTHORITY AND JURISDICTION

1. Respondent is a Texas physician and holds Texas Medical License No. D7711, which was originally issued by the Board on December 8, 1970. Respondent's license was in full force and effect at all times material and relevant to this Complaint.

2. Respondent received notice of one or more Informal Settlement Conferences (ISC). The Board complied with all procedural rules, including but not limited to, Board Rules 182 and 187, as applicable.

3. No agreement to settle this matter has been reached by the parties.

4. All jurisdictional requirements have been satisfied.

5. The filing of this Complaint and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas, as provided in Section 151.003 of the Act.

III. APPLICABLE STATUTES AND STATUTORY VIOLATIONS

The following Statutes, Rules, and Agency Policy are applicable to the procedures for conduct of the hearing this matter:

A. General Statutes and Rules:

1. Section 164.007(a) of the Act requires that the Board adopt procedures governing formal disposition of a contested case before the State Office of Administrative Hearings.

2. 22 TEX. ADMIN. CODE, CH.187 sets forth the procedures adopted by the Board under the requirement of Section 164.007(a) of the Act.

3. 22 TEX. ADMIN. CODE, CH. 190 sets forth aggravating factors that warrant more severe or restrictive action by the Board.

4. 1 TEX. ADMIN. CODE, CH. 155 sets forth the rules of procedure adopted by SOAH for contested case proceeding.

5. 1 TEX. ADMIN. CODE, CH. 155.507, requires the issuance of a Proposal for Decision ("PFD") containing Findings of Fact and Conclusions of Law.

6. Section 164.007(a) of the Act, Board Rule 187 et. seq. and Board Rule 190 et. seq., provide the Board with the sole and exclusive authority to determine the charges on the merits, to impose sanctions for violation of the Act or a Board rule, and to issue a Final Order.

B. Specific Violations Cited:

Respondent has violated one or more of the following provisions of the Act:

1. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.

2. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule, specifically Board Rule 193.17, standing delegation orders for nonsurgical medical cosmetic procedures.

3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules: 190.8(1)(C), failure to use proper diligence in one's professional practice; and 190.8(1)(K), prescription or administration of a drug in a manner that is not in compliance with Chapter 200 of this title (relating to Standards for Physicians Practicing Complementary and Alternative Medicine) or, that is either not approved by the Food and Drug Administration (FDA) for use in human beings or does not meet standards for off-label use, unless an exemption has otherwise been obtained from the FDA.

4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public.

5. Section 164.053(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent delegating professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts.

6. Section 164.052(a)(17) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent aiding or abetting the practice of medicine by any person, partnership, association, or corporation that is not duly licensed to practice medicine by the Board.

7. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's prescribing or administering a drug or treatment that is non-therapeutic in nature or non-therapeutic in the manner the drug or treatment is administered or prescribed.

8. Section 164.053(a)(8) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's failure to supervise adequately the activities of those acting under the supervision of the physician.

IV. FACTUAL ALLEGATIONS

Based on information and belief, Board Staff alleges:

1. On October 18, 2017, an officer at the Houston Police Department received an anonymous tip that employees of Blair Med Spa (Spa), in Spring, Texas, were injecting counterfeit Botox into their clients. The officer was also informed that the individuals who worked at the Spa and ordered the Botox and Juvederm and injected patients were neither doctors nor nurses.

2. An undercover investigation began on October 26, 2017, when officers visited the Spa for a consultation and to inquire about pricing and products pertaining to the Botox. On November 21, 2017, the officers continued the undercover investigation by returning to the Spa to receive Botox and lip filler injections. After the suspect injected Botox into one officer, the officers arrested and charged the suspects for practicing medicine without a license.

3. The Spa worker that was performing the injections stated in an interview with the police that she was working under Respondent. She also admitted that she was not licensed as a doctor or a nurse. She was questioned as to whether a doctor had reviewed the undercover officer's file and stated that it was not reviewed by a doctor.

4. The Spa owner that was arrested was also interviewed and stated that she ordered Botox and Juvederm with Respondent's medical license. She also admitted that prior to injecting the undercover police officer, she was told by the Food and Drug Administration (FDA) that the Spa could not administer the diverted Botox products.

5. Respondent was interviewed by police on November 21, 2017. In the interview, he admitted he ordered the diverted Botox and Juvederm from Canada and allowed the Spa to use his medical license. Respondent also stated he never reviewed or signed off on any files from the Spa and had only been to the Spa on one occasion. The undercover police officer did not see or get evaluated by Respondent prior to receiving the Botox injection.

6. Therefore, Respondent aided and abetted the unlicensed practice of medicine. Respondent helped individual(s) at Blair Med Spa that were not medical professionals, get non-FDA approved Botox and Juvederm from Canada. Respondent did not see patients or review the medical files at the Spa but he provided his medical license for use by the spa and ordered the diverted Botox and Juvederm.

7. Respondent aiding and abetting the unlicensed practice of medicine is a violation of the Act and Board Rules. Specifically:

a. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.

b. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules: 190.8(1)(C), failure to use proper diligence in one's professional practice; and 190.8(1)(K), prescription of a drug in a manner that is not in compliance with Chapter 200 of this title (relating to Standards for Physicians Practicing Complementary and Alternative Medicine) or, that is either not approved by the Food and Drug Administration (FDA) for use in human beings or does not meet standards for off-label use, unless an exemption has otherwise been obtained from the FDA.

c. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule, specifically Board Rule 193.17, standing delegation orders for nonsurgical medical cosmetic procedures.

d. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public.

e. Section 164.053(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent delegating professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts.

f. Section 164.052(a)(17) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent directly or indirectly aiding

or abetting the practice of medicine by a person, partnership, association, or corporation that is not licensed to practice medicine by the Board.

g. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's prescribing or administering a drug or treatment that is non-therapeutic in nature or non-therapeutic in the manner the drug or treatment is administered or prescribed.

h. Section 164.053(a)(8) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to supervise adequately the activities of those acting under the supervision of the physician.

V. AGGRAVATING AND MITIGATING FACTORS

Board Rules 190.14 and 190.15 provide that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: 1) increased potential for harm to the public; 2) intentional, premeditated, knowing, or grossly negligent act constituting a violation; 3) other relevant circumstances increasing the seriousness of the misconduct, and 4) prior similar violations, specifically on June 15, 2018, the Board entered a Remedial Plan due to Respondent's failure to register his supervision of a physician assistant (PA) and provide the PA with appropriate protocals and delegation orders.

Board staff is aware of no mitigating factors that apply and demand that Respondent submit proof to substantiate any alleged mitigating factors.

VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS COMPLAINT WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS AFTER THE DATE OF RECEIPT, A DEFAULT ORDER MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS, INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY ANSWER YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS MEDICAL BOARD.

VII. PRAYER

Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, and issue a Proposal for Decision containing Findings of Fact and Conclusions of Law necessary to support a determination that Respondent violated the Act as set forth in this Complaint.

Respectfully submitted,

TEXAS MEDICAL BOARD

CHRISTOPHER PALAZOLA
Litigation Manager

SUSAN RODRIGUEZ
Supervising Attorney

By: Claudia Kirk

Claudia Kirk, J.D., Attorney-in-Charge
Texas State Bar No. 24041087
Telephone: (512) 305-7071
FAX: (512) 305-7007
333 Guadalupe, Tower 3, Suite 610
Austin, Texas 78701

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

SUBSCRIBED AND SWORN to before me by the said Claudia Kirk, J.D., on January 14, 2019.

PATRICIA M. PEREZ
Notary Public-State of Texas
Notary ID #774811-8
Commission Exp. MAY 29, 2022
Notary without Bond

Notary Public, State of Texas

Filed with the Texas Medical Board on January 10, 2019.

Stephen Brint Carlton, J.D.
Executive Director
Texas Medical Board

CERTIFICATE OF SERVICE

I certify that on the 14th day of January, 2019, a true and correct copy of the foregoing document has been served as follows:

Via SOAH Document Upload System:
Docket Clerk
State Office of Administrative Hearings
William P. Clements Bldg.
300 W. 15th Street, Suite 504
Austin, TX 78701-1649

By CMRRR No. 7014 2870 0000 3057 7319, and By First Class Mail to:
STEPHEN VINCENT WHITE, MD
7418 REGENCY PL
SPRING TX 77379

Via Facsimile to: (512) 852-4446
Mark A. Weitz
Weitz Morgan PLLC
100 Congress Avenue Suite 2000
Austin TX 78701

Via Hand Delivery to:
Robin Etheridge
Hearings Coordinator
Texas Medical Board
333 Guadalupe, Tower 3, Suite 610
Austin, TX 78701

Claudia Kirk

Claudia Kirk, J.D.